

### **REMARKS**

Claims 1-61 are pending. Claims 15-19 have been indicated as having allowable subject matter. Claims 1-14 and 20-61 stand rejected. Claims 1-6, 8, 12, 14, 23-30, 49, 51-55 have been amended. Claim 15 has been cancelled. New claims 62 and 63 have been added. Reconsideration and allowance of claims 1-14 and 16-63 of the application as amended is solicited.

#### ***Premature Final Rejection***

The first page of the Office Action indicates a final Office Action while the conclusion of the Office Action indicates a non-final Office Action. Any final rejection is premature because the March 13, 2006 Office Action included a new rejection for claim 20 that was not necessitated by an amendment. *See* MPEP 706.07(a), 2nd paragraph, first sentence. Specifically, the March 13, 2006 Office Action applied a new rejection based on newly cited Philyaw when no amendments have been made to claim 20.

Applicant discussed the above with the Examiner during an April 7, 2006 telephone meeting in which the Examiner agreed that MPEP 706.07(a) supports a non-final Office Action when there is a new rejection to an original claim, such as claim 20. Applicant therefore requests withdrawal of the finality of the March 13, 2006 Office Action.

#### ***Allowable Subject Matter***

Claims 15-19 have been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form.

The subject matter of claim 15 has been included in the base claim 14. Thus, claim 14 should be allowed. Claim 15 has been cancelled.

Additionally, the entire allowable subject matter of claim 16 has been included in claim 23. Thus, claim 23 and all dependent claims should be allowable for the same reason as claim 16.

Additionally, the entire allowable subject matter of claim 17 has been included in claim 48. Thus, claim 48 and all dependent claims should be allowable for the same reason as claim 17.

*Claim Rejections – 35 U.S.C. § 103*

Claims 1-10, 12-14, 20-25, 28-32, 34, 36-45, 47, 49-51, 54-58 and 60 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Morris (U.S. Patent No. 6,694,359) in view of Philyaw, et al. (U.S. Patent No. 6,823,388).

Claim 1 has been amended. Applicant claims data-gathering circuitry that detachably couples to a network device and automatically initiates a transfer of hardware and software revision numbers from a predetermined memory location on the network device independently of any network protocols and regardless of whether any human interface devices are available. *See* page 2, lines 25-30 and FIG. 1. This feature allows a technician to simply plug the data-gathering means into a network device such as a screenless rack mounted server to gather the hardware and software versions for the server even when the server is inaccessible over the network and there is no screen for the server.

Morris teaches a truck having a server and antennae. *See* figures 1 and 10. The truck drives from one retail store to another and gathers retail inventory information from retail scanners. Morris does not disclose any automatically initiated transfers of hardware and software versions from predetermined memory locations on the scanners in response to a physical coupling.

Philyaw teaches a method using a network to transfer information stored in a bar code 4308 over a network 306 to an advertising server 312. *See* Abstract and accompanying diagram. The bar code 4308 includes Universal Product Code (UPC) information that specifies a product code for a product having the UPC sticker. The optical scanner does not automatically initiate a transfer of hardware and software versions from predetermined memory locations on the optical scanner in response to a physical coupling.

In contrast, claim 1 includes a system having a protocol to automatically read said hardware and software version numbers from the predetermined memory location, said automatic reading occurring in response to detachably coupling the data-gathering circuitry to the network device and independently of any manual inputs over any human interface devices for either the data-gathering circuitry or the network device. Thus, claim 1 should be allowed. Claims 2-13 are dependent and should also be allowed.

Claim 14 has been amended to include the subject matter of allowable claim 15. For at least this reason, claim 14 should be allowed.

With respect to claim 20, Morris fails to teach each and every element. Morris fails to teach at least the element of instructions residing in the network device for programming one or more memory locations in the network device with data regarding a defined identification and a defined configuration of the network device.

The claimed instructions are not disclosed in Morris. The cited column sections describe a truck including the MAS communicating with a satellite in geosynchronous orbit to determine location information. Once the truck/MAS is in range, the data collection terminal then sends a store ID via a call to the truck/MAS. See col. 18, lines 20-23. The store ID identifies where the data collection terminal 312 is calling from. The truck/MAS then saves into its own DRAM the store ID. See col. 18, lines 20-31. This is the opposite of the claimed instructions. There are no instructions for programming the ID of the truck/MAS into the memory of the truck/MAS, nor are there instructions for programming an ID of the data collection terminal 312 into data collection terminal memory. Instead, the data collection terminal 312 has to initiate a call to send the store ID to the truck/MAS. See FIG. 6.

The Office Action also cites Morris col. 19, lines 45 through col. 20 line 26. These sections describe a foreign agent advertisement sent by the server every two seconds. The foreign agent advertisements indicate that a scanner should communicate the retail inventory information. A “go ahead” for transmission is not an instruction residing in the network device for programming one or more memory locations in the network device with data regarding a defined identification and a defined configuration of the network device.

Philyaw also fails to disclose at least the element of instructions residing in the network device for programming one or more memory locations in the network device with data regarding a defined identification and a defined configuration of the network device. In Philyaw, the optical scanner reads the UPC code and transfers that information to a computer. The UPC code does not specify a defined identification and a defined configuration of the optical scanner, but rather provides information about a product to which the UPC code is affixed.

In contrast, claim 20 includes the feature of instructions residing in the network device for programming one or more memory locations in the network device with data regarding a defined identification and a defined configuration of the network device. This feature allows a

person to easily determine such things as the current IP address for the network device, the MAC address for the network device, etc. Thus, claim 20 should be allowed. Claims 21-22 are dependant and should also be allowed.

Claim 23 has been amended to include all of the subject matter of allowable claim 16. For at least this reason, claim 23 should be allowed. Claims 24-25 are dependant and should also be allowed.

Claim 28 has been amended. Claim 28 now includes an automatically initiated read feature that allows a technician to use a screenless portable device to gather information from a rack mount server that does not have a screen. None of the cited references automatically initiate a data transfer independently of any visual displays. For example, the figures for both Morris and Philyaw show at least one of the two data transfer devices connected to screens/monitors. Moreover, in addition to everything described above, neither reference even suggests an automatic data transfer from one screenless device to another. Thus, claim 28 should be allowed. Claims 29-32 are dependent and should also be allowed.

No amendments have been made to claim 36. Neither reference teaches a portable reader mechanism to gather firmware configuration data from a network device without relying on a network connection.

The Office Action cites Morris col. 19, lines 45-67 and col. 20, lines 1-26 as teaching this feature. However, these sections describe a foreign agent advertisement sent by the server every two seconds. The foreign agent advertisements do not communicate firmware configuration data.

Nor does Philyaw disclose gathering firmware configuration data. The UPC codes contain product codes, which do not specify how a firmware has been configured.

In contrast, claim 36 includes a reader mechanism to gather firmware configuration data from a network device without relying on a network connection. Thus, claim 36 should be allowed. Claims 37-45 are dependant and should also be allowed.

Claim 49 has been amended to include the subject matter of allowable claim 17. For at least this reason, claim 49 should be allowed. Claims 50-51 are dependant and should also be allowed.

Claim 54 has been amended and should be allowed for at least similar reasons as claim 1. Thus, claim 54 should be allowed. Claims 55-58 are dependant and should also be allowed.

Claims 3, 11, 26, 27, 33, 35, 46, 48, 52, 53, 59 and 61 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Morris and Philyaw, in view of Pascucci, et al. (U.S. Patent No. 6,115,713).

Claims 3, 11, 26, 27, 33, 35, 46, 48, 52, 53, 59 and 61 are dependent and should be allowed for at least the same reason as their respective base claims.

### *New Claims*

New claims 62 and 63 have been added. Support for the new claims may be found in the present specification, page 3, lines 20-27.

With respect to claim 62, Applicant claims a system allow a user to gather and record a BIOS version number from a network device independently of network accessibility for the network device. This feature allows the person to gather the BIOS version number from the device regardless of whether the device is accessible over the network. None of the cited references teach this feature.

Morris teaches a truck that includes a server. The truck drives from one retail location to another and gathers retail inventory count from retail scanners. *See* figures 1 and 10 showing the scanners and the truck. Morris does not disclose the server gathering a BIOS version number from the scanners or visa versa. When the scanners or the server are not functioning properly, Morris does not suggest any method of transferring a BIOS version number from one device or another to facilitate troubleshooting.

Philyaw teaches a method using a network to transfer information stored in a bar code 4308 over a network 306 to an advertising server 312. *See* Abstract and accompanying diagram. The bar code 4308 includes Universal Product Code (UPC) information that specifies a product code for a product having the UPC sticker. Philyaw does not disclose or suggest transferring a BIOS version number from the bar code to the host PC for the scanner or from the host PC to the advertising server. When the bar code reader, the host PC or the advertising server are not functioning properly, Philyaw does not suggest any method of transferring a BIOS version number from one device to facilitate troubleshooting.

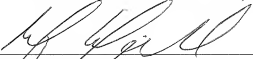
In contrast, claim 62 includes the feature of a data-gathering circuitry that detachably couples to a network device and reads a BIOS version number from the network device independently of network accessibility. This feature allows a person to troubleshoot issues with, for example, a rack mount server. In other words, this feature allows person to read the BIOS version number for the rack mount server even when the rack mount server is not accessible by any networks and even when no screens are coupled to the rack mount server. For these and other reasons, claim 62 should be allowed. Claim 63 is dependant and should also be allowed.

### CONCLUSION

For the foregoing reasons, reconsideration and allowance of claims 1-14 and 16-63 of the application as amended is solicited. The Examiner is encouraged to telephone the undersigned at (503) 276-4842 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

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